UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/840,108	05/05/2004	Martin Weel	1116-064	9463

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EXAMINER
DAFTUAR, SAKET K

ART UNIT	PAPER NUMBER
2451	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
	10/840,108	WEEL, MARTIN
Office Action Summary	Examiner	Art Unit	
	SAKET K. DAFTUAR	2451	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 May 2011*.
2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *11-18,31,32,34-44 and 50-56* is/are pending in the application.
     4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) *11-18,31,32,34-44 and 50-56* is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
     a)☐ All   b)☐ Some * c)☐ None of:
         1.☐ Certified copies of the priority documents have been received.
         2.☐ Certified copies of the priority documents have been received in Application No. _____.
         3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
     Paper No(s)/Mail Date *04/26/11 and 05/17/11*.

4) ☐ Interview Summary (PTO-413)
     Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____ .

Response to Amendment

1.   This office action is responsive to the amendment filed on May 17th, 2011. Claims 11-18, 31-32, 34-44 and 50-56 are presented for the further examination.

2.   Examiner has withdrawn the previous Non-Final office action in view of remarks presented in the amendment and the prosecution, hereby, is reopened.

Response to Arguments

3.   Applicant's arguments see remarks, filed May 17th, 2011, with respect to the rejection(s) of claim(s) 11-18, 31-32, 34-44 and 50-56 have been fully considered and are persuasive.   Therefore, the rejection has been withdrawn.   However, upon further consideration, a new ground(s) of rejection is made in view of Fukao et al. US Publication Number 2004/0024912 A1.

Claim Rejections - 35 USC § 112

4.   Claims 11-18, 31-32, 34-44 and 50-56 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement has been withdrawn. Examiner respectfully thanks applicant assigned representative for clarifying "user input" being a selection made for desired location and clarifying that "user input" is nothing more than making such selection.

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

6.   The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

    1.   Determining the scope and contents of the prior art.
    2.   Ascertaining the differences between the prior art and the claims at issue.
    3.   Resolving the level of ordinary skill in the pertinent art.
    4.   Considering objective evidence present in the application indicating
            obviousness or nonobviousness.

7.   Claims 11-18, 31-32, 34-44 and 50-56 are rejected under 35 U.S.C. 103(a) as

being unpatentable over Goldberg et al. US Publication Number 2005/0160270 A1

(hereinafter Goldberg) and Fukao et al. US Publication Number 2004/0024912 A1

(hereinafter Fukao).

        As per claim 31, Goldberg discloses a method of playing media items, the

method comprising:

        moving a first device [the user using the search unit, see paragraphs 0228-0229,

see paragraphs 0233-0234 for search unit devices] operative to receive a wireless

broadcast [see paragraph 0023-0024 for wireless broadcast] of at least one location ID

[location id such as address, IP address and port [address] for IP based communication,

see paragraph 0229, whereas broadcaster sends an ID via the broadcast unit] into a

range of a network [see paragraphs 0228-0229 for limited range between broadcaster and searcher] having connected thereto at least one second device [broadcaster, the user using the broadcast unit, see paragraphs 0228-0229] operative to wirelessly broadcast the at least one location ID [location id such as an IP address and port for IP based communication, see paragraph 0229, whereas broadcaster sends an ID via the broadcast unit]

wherein the at least one location ID identifies location ID identifies a realm [see paragraphs 0221-0223 for search units can be members of another cluster, examiner interprets cluster as a realm] of which at least one second device is a member [see paragraph 0229 for "With this ID, the broadcast unit can either request the searcher to join, or can be receptive to the searcher when the searcher … join local units within its wireless range… the broadcaster sends an ID via the broadcast unit 710 to the search unit 750. With this ID, the searcher unit can then make an attempt to connect with the broadcast unit 710…"];

receiving on the first device the at least one location ID [see paragraphs 0228-0229 for "the broadcaster sends an ID via the broadcast unit 710 to the search unit 750" on searcher];

receiving, on the first device, selecting [see paragraph 0228-0229 for selecting one broadcast unit from a number of broadcast units within an area] at least one desired location ID from the at least one location ID received [location id such as an IP address and port for IP based communication, see paragraph 0229, whereas broadcaster sends an ID via the broadcast unit];

transmitting authentication information [see paragraph 0272 for transferred information such as IP address or passwords or other information that is required members to receive the signal, i.e. authorized members information, such information is transmitted openly in encrypted form] to the at least one second device for the at least one desired location ID [see paragraph 0272 for location id such as socket IP addresses, passwords or other information related to id] and

receiving a list of members [see paragraph 0255 for list of personal IDs] of the realm identified [see paragraph 0252 for "The cluster IDs represent the personal ID's of other units 100 with which the search unit 750 has been previously associated in a cluster", and see paragraphs 0252-0253 for "the searcher was member of a particular cluster] by the at least one desired location ID.

Goldberg is silent about transmitting user input being received at first device and list of devices that are member of the realm.

Fukao teaches transmitting user input being received at first device. i.e. client device [see figure 16 with paragraphs 0113-0116 for receiving network device selection as an input in registration request and sending registration request to the device management server with user ID and complete the registration process] and receiving list of devices that are member of the realm [see figure 6-7 for data structure that reflects the list of group members registered in a group with figure 1, see paragraphs 0065-0066, for member list field for storing all members of the group and 0087-0091, 0166- 0172 for joining group with device ID].

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention is made to combine the teachings of Goldberg and Fukao to provide a method for sharing music from stored musical signals between a first user with a first music player device and at least one second registered or paired user with at least one second music player device whereas a users are sharing or listening music together.

As per claim 32, Goldberg discloses transmitting one of a user name, a user identifier, a location identifier, and a password [see paragraph 0272 for location id such as socket IP addresses, passwords or other information that is required for a member to receive the signal].

As per claim 34, Goldberg discloses receiving on the first device the at least one location ID further comprises receiving a plurality of location IDs, and wherein selecting the at least one location ID further comprises selecting [see paragraph 0228-0229 for selecting one broadcast unit from a number of broadcast units within an area] one of the plurality of location IDs [see paragraph 0252 for "The cluster IDs represent the personal ID's of other units 100 with which the search unit 750 has been previously associated in a cluster", and see paragraphs 0252-0253 for "the searcher was member of a particular cluster].

As per claim 35, Goldberg is silent about receiving the list of devices associated the at least one location ID comprises receiving the list of devices associated with the at least one location ID from the at least one second device.

Fukao teaches receiving the list of devices associated the at least one location ID comprises receiving the list of devices associated with the at least one location ID from the at least one second device [see figure 6-7 for data structure that reflects the list of group members registered in a group with figure 1, see paragraphs 0065-0066, for member list field for storing all members of the group and 0087-0091, 0166- 0172 for joining group with device ID].

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention is made to combine the teachings of Goldberg and Fukao to provide a method for sharing music from stored musical signals between a first user with a first music player device and at least one second registered or paired user with at least one second music player device whereas a users are sharing or listening music together.

As per claim 37, Goldberg discloses selecting [see paragraph 0228-0229 for selecting one broadcast unit from a number of broadcast units within an area] at least one desired location ID, and controlling the selected device.

Fukao teaches a device from the list of devices associated [see figure 6-7 for data structure that reflects the list of group members registered in a group with figure 1, see paragraphs 0065-0066, for member list field for storing all members of the group and 0087-0091, 0166- 0172 for joining group with device ID].

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention is made to combine the teachings of Goldberg and Fukao to provide a method for sharing music from stored musical signals between a first user

with a first music player device and at least one second registered or paired user with at least one second music player device whereas a users are sharing or listening music together.

As per claim 38, Goldberg discloses controlling the selected device further comprises causing the selected device to render at least a portion of a media item [see paragraphs 0142-0145 for playing the audio].

As per claim 39, Goldberg discloses controlling the selected device further comprises downloading a media item from the selected device [see paragraph 0337 for database retrieving the dance file from the storage].

As per claim 40, Goldberg discloses the first device comprises at least one of a PDA, a palmtop computer, a laptop computer, and a cellular telephone [see paragraphs 0291-0292 for pc].

As per claim 44, Goldberg discloses the wide area network comprises the Internet. [0369 for wireless access point in connection of an Internet].

As per claim 50, Goldberg in view of Fukao discloses a method for playing media items as set forth in claim 31 as discussed above.

In addition, Goldberg discloses selecting on the first device, a song to be played on the at least one second device [see figure 23 for user selecting a song from the display to play, see paragraph 0331].

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention is made to combine the teachings of Goldberg and Fukao to provide a method for sharing music from stored musical signals between a first user

with a first music player device and at least one second registered or paired user with at least one second music player device whereas a users are sharing or listening music together.

As per claim 51, Goldberg in view of Fukao discloses a method for playing media items as set forth in claim 31-32, 34-35, 37-40 and 50 as discussed above.

In addition, Goldberg discloses displaying on the first device [see paragraph 0029 for both first and second device have displays which can display the identifier signal, paragraph 0236 for " a search unit 750 member can display either the total number of people with whom he has shared personal characteristics"], the plurality of location IDs received [location id such as an IP address and port for IP based communication, see paragraph 0229, whereas broadcaster sends an ID via the broadcast unit].

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention is made to combine the teachings of Goldberg and Fukao to provide a method for sharing music from stored musical signals between a first user with a first music player device and at least one second registered or paired user with at least one second music player device whereas a users are sharing or listening music together.

As per claim 52, Goldberg in view of Fukao discloses a method for playing media items as set forth in claim 31-32, 34-35, and 50-51 as discussed above. Claim 52 do not teach or further define over the limitation as recited in claims 31-32, 34-35, and 50-51.

Therefore, claim 52 is rejected under same rationale as discussed in claims 31-32, 34-35, and 50-51, supra.

As per claim 53, Goldberg in view of Fukao discloses a method for playing media items as set forth in claim 31-32, 34-35, 37-40 and 50-52 as discussed above.

In addition, Goldberg discloses displaying on the first device [see paragraph 0029 for both first and second device have displays which can display the identifier signal, paragraph 0236 for " a search unit 750 member can display either the total number of people with whom he has shared personal characteristics"].

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention is made to combine the teachings of Goldberg and Fukao to provide a method for sharing music from stored musical signals between a first user with a first music player device and at least one second registered or paired user with at least one second music player device whereas a users are sharing or listening music together.

As per claims 54-55, Goldberg is silent about the list of devices is transmitted from a server operatively connected to the network through a wide area network.

Fukao teaches the list of devices is transmitted from a server operatively connected to the network through a wide area network [see figure 6-7 for data structure that reflects the list of group members registered in a group with figure 1, see paragraphs 0065-0066, for member list field for storing all members of the group and 0087-0091, 0166- 0172 for joining group with device ID and see figure 16 with

paragraphs 0113-0116 for network device sending registration request to the device management server with user ID and complete the registration process].

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention is made to combine the teachings of Goldberg and Fukao to provide a method for sharing music from stored musical signals between a first user with a first music player device and at least one second registered user with at least one second music player device whereas a users are sharing or listening music together and monitoring or controlling the people that are sharing the music together.

As per claim 56, Goldberg discloses the realm is a wireless local area network [see paragraph 0172 for short range wireless communication, paragraph 0229 for wireless range in broadcast transmission, paragraph 0321 for wireless communication and paragraphs 0369 for wireless access point in connection of an Internet].

As per claims 11-18, claims 11-18 do not teach or further define over the limitation as recited in claims 31-32, 34-35, 37-40, and 54-55. They do no teach or further define over the limitation as recited in claims 31-32, 34-35, 37-40, and 54-55. Therefore, claims 11-18 are rejected under same scope as discussed in claims 31-32, 34-35, 37-40, and 54-55, supra.

As per claims 41-43, claims 41-43 do no teach or further define over the limitation as recited in claims 31 -32, 34-35,37-40, 50, and 54-55. Therefore, claims 41-43 are rejected under same scope as discussed in claims 31 -32, 34-35, 37-40, 50, and 54-55, supra.

Conclusion

8.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See accompanying PTO 892 form.

    a.   Dynamic Streaming Media Management by O'Rourke et al. US Patent Number 6,990,497 B2.

    b.   Streaming Media Delivery on Multicast Networks for Network and Server Bandwidth Minimization and Enhanced Personalization by Weber et al. US Patent Number 7,020,710 B2.

9.   A shortened statutory period for reply to this non-final action is set to expire **THREE MONTHS** from the mailing date of this action. Failure to respond within the period for response will result in **ABANDONMENT** of the applicant (See 35 U.S.C 133, M.P.E.P 710.02,71002 (b)).

Contact Information

10.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to SAKET K. DAFTUAR whose telephone number is (571)272-8363. The examiner can normally be reached on 7:00 - 3:30 pm M-Th.

    If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on 571-272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

    Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system.   Status information for

published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/SAKET K DAFTUAR/

Examiner, Art Unit 2451